

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

NORTH GUALALA WATER
COMPANY,

Plaintiff and Appellant,

v.

STATE WATER RESOURCES
CONTROL BOARD,

Defendant and Respondent.

A109438

(Mendocino County
Super. Ct. Nos. SCUK CVG '01 86109,
SCUK CV PT '03 90347)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on May 31, 2006, be modified as follows:

1. On page 21, in the fourth sentence of the first paragraph, the word “not” is deleted, so the sentence reads:

NGWC insists that it did exhaust its administrative remedies because: (1) it expressly argued to the Board that the *Garrapata* test must be qualified in specified respects, and (2) the arguments and evidence on which it relies on appeal are in substance identical to those it advanced in the administrative proceedings.

2. On page 34, the last sentence on the page that begins with “Accordingly” is modified to read as follows:

Accordingly, the Board may enforce Term 9 according to its interpretation that the term applies to all diversion points subject to the permit.

There is no change in the judgment.

Appellant's petition for rehearing is denied.

Dated:

Marchiano, P.J.